REMARKS

This responds to the Final Office Action mailed January 7, 2009. Claim 52 is amended and no additional claims have been added or cancelled. As a result, claims 1-16, 26-34, 52-65, and 198 are now pending in this application.

§ 101 Rejection of the Claims

The Final Office Action continues to reject claim 52 under 35 U.S.C. § 101 as being directed to non-statutory subject matter and suggested that amending claim 52 to recite "'transmitting a programming signal using a computer processor' or something similar would overcome the rejection" (see Final Office Action at page 11). As suggested by the Final Office Action, the Applicants have amended independent claim 52 to recite, in part, that "the transmission [is] done at least in part through use of one or more processors." In view of the amendment, the Applicants submit that the claimed invention is directed to statutory subject matter and request the 35 U.S.C. §101 rejection to be withdrawn.

§ 102 Rejection of the Claims

Claims 1-16, 26-34, 52-57, 61-65, and 198 stand rejected under 35 U.S.C. § 102(e) for anticipation by U.S. Patent Publication No. US 2005/0210502 to Flickinger et al. (hereinafter "Flickinger"). In response to the Applicants' response mailed on October 15, 2008, the Final Office Action answered that "the Applicant is arguing about limitation not stated in the claims or specification" because "[n]owhere, in Applicant's specification or claims is recited that multiple advertisements are viewed together at the same time or that for example, advertisements intended for a mother can be inserted together with another advertisement intended for a father" (see Final Office Action at page 11). The Applicants respectfully traverse the Final Office Action's characterization of Applicants remarks' relative to independent claims 1, 26, and 52.

In the previous remarks mailed on October 15, 2008, the Applicants were simply trying to provide an explanation of Flickinger's disclosure. Applicants' remarks are fully supported by Flickinger, as evidenced by Applicants' previous assertion that Flickinger at paragraph 64 discloses "a different ad may be maintained for each potential subscriber (television viewer) at the subscriber location (e.g., ***mother, father***, child)" (emphasis added). The Applicants never asserted that a "mother" and a "father" were elements recited in independent claims 1, 26, and

52, and the Final Office Action's characterization of Applicants' previous remarks is simply unreasonable.

In continued support of the 102(e) rejections, the Final Office Action notes that "Flickering teaches selecting ads to insert into a portion of a screen (i.e., background images) during an actual programming, where said ads are targeted (i.e., "targeted media objects") based upon user's profile and where different ads may be maintained for each potential subscriber at the subscriber location" (see Final Office Action mailed on 1/7/2009 at page 11). The Final Office Action asserts that "ads" disclose "target media objects," but the Applicants note that the different advertisements disclosed in Flickinger are not in the same "programming signal" and "to be presented at the instance in the program," as recited in independent claims 1, 26, and 52. As discussed in the previous response mailed on October 15, 2008, Flickinger discloses that an advertisement is "inserted into that avail [or interval] (i.e., substituted for the default ad)" at "particular time intervals" and in "designated order" (paragraphs 41, 42, and 45). Therefore, multiple advertisements, as disclosed in Flickinger, are received ***sequentially*** and they cannot "be presented ***at an instance in the program***," as recited in independent claims 1, 26, and 52.

The Applicants continue to assert that independent claims 1, 26, and 52 are patentable under 35 U.S.C. §102(e) over Flickinger. Claims 2-16, 27-34, 53-57, 61-65, and 198, each of which depends from one of independent claims 1, 26 or 52, are likewise patentable under 35 U.S.C. §102(e) over Flickinger for at least the same reasons set forth above regarding the applicable independent claims. Accordingly, the anticipation rejections of pending claims 1-16, 26-34, 52-57, 61-65, and 198 are improper and should be withdrawn.

§ *103 Rejection of the Claims*

Claims 58-60 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Flickinger in view of U.S. Patent No. 6,480,885 to Olivier. As discussed above, Flickinger does not disclose "a programming signal that comprises, a portion of the plurality of background media objects to be presented at an instance in the program to the at least two user audiences, and a portion of the plurality of targeted media objects to be presented at the instance in the program, the portion of the plurality of targeted media objects including a first media object to be targeted to a first user audience and a second media object to be targeted to a second user

audience," as recited in independent claim 52. Applicants respectfully submit that the claims 58-60, each of which depends from independent claim 52, are not obvious over Flickinger in view of Olivier. Applicants therefore respectfully request the Examiner to withdraw the 35 U.S.C. §103(a) rejections of pending claims 58-60.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants representative at (408) 278-4047 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(408) 278-4047

Date 3/9/2009

By /Michael Hsu/
Michael K. Hsu
Reg. No. 46,782

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 9, 2009.

John D. Gustav-Wrathall
Name

Paralegal
Schwegman, Lundberg & Woessner

Signature